

Information regarding the tax liabilities in a lease situation may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010. (This is a GIL.)

July 22, 2005

Dear Xxxxx:

This letter is in response to your letter dated January 28, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a resaler of mail room equipment. We purchase product from our manufacturer and install the equipment inside Illinois. There are 2 ways we are funded; 1. Straight purchase where we bill the customer and collect and remit the sales tax; or 2. Use a 3rd party leasing company who pays us the full amount of the equipment up front and then the leasing company collects the payments from the customer for whatever term the lease is. The leasing company, in the past, has always remitted the sales tax.

Recently we began using a new leasing company, who refuses to remit the sales tax. They pay us the sales tax and we remit. They properly include the sales tax inside the lease, as they should.

My understanding from an agent of the Illinois Department of Revenue-sales tax division, (telephone conversation) that the entity that holds the contract with the customer is the entity responsible for remitting the sales tax. In the event of a straight purchase, when we invoice and bill the customer, ABC holds the contract with the customer. When leasing, the leasing company holds the contract with the customer and is required to remit the sales tax. The agent recommended that I request a written ruling from the Legal Services department.

Please contact me should you have any questions.

DEPARTMENT'S RESPONSE:

We are without sufficient information regarding actual ownership of the equipment and the nature of the transaction to determine your specific tax liabilities. Information regarding the tax liabilities in a lease situation may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk